

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF WASHINGTON

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3	RIVER CITY MEDIA, LLC, a)
4	Wyoming limited liability)
5	company, MARK FERRIS, an)
6	individual, MATT FERRIS, an)
7	individual, and AMBER PAUL,)
8	an individual,)
9)
10	Plaintiffs,)
11)
12	-vs-)
13)
14	KROMTECH ALLIANCE CORPORATION,)
15	a German corporation, CHRIS)
16	VICKERY, an individual, CXO)
17	MEDIA, a Massachusetts)
18	corporation, INTERNATIONAL DATA)
19	GROUP, a Massachusetts)
20	corporation, and STEVE RAGAN,)
21	an individual, and DOES 1-50,)
22)
23	Defendants.)
24)
25)

NO. 1:17-CV-105-SAB

August 16, 2017
Yakima, Washington

VERBATIM REPORT OF PROCEEDINGS
MOTION HEARING

BEFORE THE HONORABLE STANLEY A. BASTIAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR PLAINTIFFS RIVER CITY
MEDIA, MATT FERRIS, MARK
FERRIS AND AMBER PAUL:

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19 produced by computer-aided transcription.
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1 said, at first blush when we looked at the contract, we thought
2 there might be contradictory provisions. But the court dug into
3 the contract, interpreted it, and held as a matter of law that
4 there was no agency, no right to control the details of the work
5 there.

6 So in that same way, there's really no reason that it
7 can't be dealt with as a matter of law. And we don't need to
8 get into discovery, and then all the way through to the motion
9 for summary judgment, only to litigate the issue of whether
10 there's sufficient agency showing to hale Kromtech into court in
11 Washington.

12 THE COURT: Okay. You're at your five minutes. If
13 you want to wrap up, you may.

14 MR. BROWN: I am wrapping up. Thank you.

15 THE COURT: Thank you, Mr. Brown.

16 Mr. Neta.

17 MR. NETA: Very brief, Your Honor.

18 THE COURT: I typically don't do this. Let me
19 explain. I'll give you two minutes. It is not your motion, but
20 it is your burden. So I think, since you're facing six against
21 two, I'll give you two minutes to sum it up.

22 MR. BABCOCK: Fair fight, Your Honor.

23 MR. NETA: Thank you. I'll keep it very brief.

24 The Washington statute that was referenced earlier, I
25 believe it's discretionary, and I don't think it has any impact

1 on federal courts. While it might be true that the Supreme
2 Court has tightened up general jurisdiction, I don't believe
3 that's the case with specific. And it's certainly not the case
4 of Internet actions.

5 A lot has been discussed about the *Walden* case, but I
6 just want to quickly bring your attention --

7 THE COURT: And you're proceeding only under specific
8 jurisdiction --

9 MR. NETA: That's correct, Your Honor.

10 THE COURT: -- for all of the defendants, is my
11 impression, after reading all the briefing.

12 MR. NETA: Precisely. If you look at Footnote 9 of
13 the *Walden* case, it says specifically:

14 ... this case does not present the very
15 different question whether and how
16 defendant's virtual "presence" and conduct
17 translate into "contacts" with a particular
State. ... We leave questions about virtual
contacts for another day.

18 So while that case did have something to say about
19 constraining specific jurisdiction, it doesn't have any impact
20 on this case, because that's not what this case is about. It's
21 about Internet damage, Internet advertising commerce.

22 Quickly, on the issue of agency, I think there's
23 enough evidence in the case so far to indicate that Kromtech had
24 some agency control over Mr. Vickery. And as I said earlier,
25 CXO doesn't really dispute the notion that they had agency

1 control over Mr. Ragan. There is a question about CXO and IDG
2 and to the extent to which they're interrelated, but all I would
3 say in response to that, Your Honor, is if you feel that
4 question needs to be more appropriately addressed in the
5 pleadings, we're happy to take jurisdictional discovery on
6 certain questions so that we can resolve that issue.

7 THE COURT: Okay. Thank you.

8 MR. NETA: Thank you, Your Honor.

9 THE COURT: All right. I'll try to get a decision out
10 as soon as I can. I do have a week-long trial that begins on
11 Monday, so that will probably get in the way of this a little
12 bit, but we'll work on it, get it out as soon as we can. It
13 will be a couple weeks.

14 But I've enjoyed our time this afternoon. And thank
15 you for being prepared, organized, and efficient.

16 MR. NETA: Thank you.

17 MR. BABCOCK: Thank you, Your Honor,

18 (ADJOURNMENT at 2:39 P.M.)
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REPORTER'S CERTIFICATE

I, LYNETTE WALTERS, Registered Professional Reporter,
Certified Realtime Reporter and Certified Court Reporter;

DO HEREBY CERTIFY:

That the foregoing transcript, Pages 1 through 50,
contains a full, true, complete and accurate transcription of my
shorthand notes of all requested matters held in the foregoing
captioned case, including all objections and exceptions made by
counsel, rulings by the court, and any and all other matters
relevant to this case.

DATED this 12th day of September, 2017

s/ Lynette Walters
LYNETTE WALTERS, RPR, CRR, CCR
CCR NO. 2230